

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DWAYNE HOOSIER,

Plaintiff,

CASE NO. 16-10688
HON. DENISE PAGE HOOD

v.

WENDY LIU, *et al.*,

Defendants.

**OPINION AND ORDER ADOPTING REPORT AND
RECOMMENDATION [#68] TO DENY DEFENDANTS WENDY LIU, N.P.,
BADAWI ABDELLATIF, M.D., KIM FARRIS, P.A., AND KAREN
RHODES, D.O.’S MOTION TO DISMISS PURSUANT TO FED. R. CIV. P.
41(b) [#57]**

This matter is before the Court on a Report and Recommendation (Doc # 68) filed by Magistrate Judge Anthony P. Patti to deny Defendants Wendy Liu, N.P., Badawi Abdellatif, M.D., Kim Farris, P.A., and Karen Rhodes, D.O.’s (collectively, the “Defendants”) Motion to Dismiss pursuant to Fed. R. Civ. P. 41(b). (Doc # 57) No objections were filed to the Report and Recommendation. The Court ACCEPTS and ADOPTS the Report and Recommendation and DENIES Defendants’ Motion to Dismiss WITHOUT PREJUDICE.

The background facts of this matter are adequately set forth in the Magistrate Judge’s Report and Recommendation, and the Court adopts them here.

The standard of review by the district court when examining a Report and Recommendation is set forth in 28 U.S.C. § 636. This Court “shall make a *de novo* determination of those portions of the report or the specified proposed findings or recommendations to which an objection is made.” 28 U.S.C. § 636(b)(1)(C). The court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* In order to preserve the right to appeal the magistrate judge’s recommendation, a party must file objections to the Report and Recommendation within fourteen (14) days of service of the Report and Recommendation. Fed. R. Civ. P. 72(b)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Howard v. Sec’y of Health & Human Servs.*, 932 F.2d 505, 508-09 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).

After review of the Magistrate Judge’s Report and Recommendation, the Court finds that his findings and conclusions are correct. The Court agrees with the Magistrate Judge that the factors considered for dismissal do not operate in Defendants’ favor.

Accordingly,

IT IS HEREBY ORDERED that Magistrate Judge Anthony P. Patti’s Report and Recommendation (Doc # 68) is **ACCEPTED** and **ADOPTED** as this Court’s findings of fact and conclusions of law.

IT IS FURTHER ORDERED that Defendants Wendy Liu, Badawi Abdellatif, Kim Farris, and Karen Rhodes's Motion to Dismiss pursuant to Fed. R. Civ. P. 41(b) (Doc # 57) is **DENIED WITHOUT PREJUDICE**.

S/Denise Page Hood

Denise Page Hood

Chief Judge, United States District Court

Dated: January 31, 2018

I hereby certify that a copy of the foregoing document was served upon counsel of record on January 31, 2018, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry

Case Manager